

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7492 of 1997  
with  
SPECIAL CIVIL APPLICATION No. 6469 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE  
and  
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SUO MOTU

Versus

POKHRAJ PROCESSORS  
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Appearance:

SUO MOTU for Petitioner  
MR HASHIM QURESHI for Respondent No. 1  
SERVED for Respondent No. 2  
UNSERVED for Respondent No. 4  
SERVED BY AFFIXING for Respondent No. 6  
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CORAM : MR.JUSTICE S.D.DAVE and  
MR.JUSTICE A.M.KAPADIA  
Date of decision: 20/01/98

The present order shall govern the disposal of these two petitions. Special Civil Application No. 6469 of 1997 is clearly prior in time to the other petition which has been registered as Special Civil Application No. 7492 of 1997.

While disposing of these two petitions, we are concerned with two prime questions. The first question is as to what action should be taken against the Unit known as Pukhraj Processors, situated at Behrampura area at Ahmedabad. The second question is in respect of the release of Truck which was found to be parked near the premises of above-said Unit at the time of the visit and which was found to be carrying large quantity of fabrics.

Taking the second question first, we would say that so far as the fabric which was being found to be in the truck, which was registered as GJ-1-TT-8711, we had preferred to obtain the opinion from ATIRA. This report was required to be obtained because it was alleged that Pukhraj Processors, the Unit was found to be indulging in carbonization and silicating process and that the fabrics which were being transported by truck were meant for the above said process. The ATIRA report had made it abundantly clear that the above said fabrics were not amenable to the above said two processes, therefore, under our earlier orders we have released the fabric.

At present the second question as posed by us as to whether what should be done regarding release of the truck. It is not in dispute that under the orders dated October 17, 1997 pronounced by the learned Single Judge of this Court, there was an order of the release of truck subject to certain terms and conditions. We are being notified by learned counsel Mr. Qureshi who represents the cause for the release of the truck that pursuant to the above said orders, the truck was actually released but once again, the same has been taken into custody of the Dani Limda Police Station, pursuant to the order of this Court. In our opinion, looking to the clear report received from ATIRA that the fabric which were being transported by the above said motor-truck were not amenable to the above said two processes, the truck should be released. We, therefore, order Dani Limda Police Station to release the above said truck forthwith. But this release order shall be subject to the same terms and conditions as have been imposed by the learned Single Judge in the orders dated October 17, 1997 in Special

The second question is in respect of the decision of the present two petitions. It is indeed true that once upon a time, it was found that the Unit was indulging in carbonizing and silicating. Any how, later on there has been an Affidavit of one Shri Ghanshyam B. Prajapati, Proprietor of Pokhraj Processors dated 13th October, 1997. This Affidavit makes it abundantly clear that now the Unit has surrendered the possession of the premises where the Unit was carrying on its activities. This surrendering of possession is in the favour of the occupant of the land one Tejas Nursery which was previously known as Jagdish Nursery. The affidavit further says that the entire Unit has been demolished. There has been an undertaking in the affidavit that now the Unit would not take up the process of carbonizing or even manufacturing at any place whatsoever and that the Unit shall be taking up brokerage and commissioning activity in respect of pure grey cotton cloth. The affidavit also undertakes on behalf of the unit to submit periodical details of such business to GPCB. Thus, it is clear that now the Unit has dismantled the Plant and they have surrendered possession of the premises to the landlord / original occupant and we do not see any possibility on the part of the Unit to indulge in the very same activity once again. Moreover, even for the activities of brokerage or commission, the Unit has undertaken to submit report to the GPCB. In our opinion, therefore, these petitions are required to be terminated. We order accordingly.

There is a contention coming from the learned counsel Mr. Waghela appearing for the Board saying that at one juncture the Unit was found to be indulging in the abovesaid activities, and therefore, some penalty should be imposed upon the Unit. Upon hearing learned counsel MR. K.V Shelat appearing for the Unit and learned counsel Mr. Waghela for GPCB, we feel that if an amount of Rs. 10,000/= is imposed as penalty on the Unit it would be an appropriate penalty. In the facts and circumstances of the case, we order accordingly. With these orders, these two petitions stand disposed of.

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